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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,653	02/07/2001	Yasuo Ohsawa	Q62556	9224

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EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

8

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,653

Applicant(s)

OHSAWA, YASUQ

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-3-03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14 and 18-24 is/are rejected.
- 7) ☒ Claim(s) 12 and 15-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Heinen

3) **Claims 1-7, 9-11, 13-14 and 20-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Heinen (US 6415835).**

Heinen is applied as in paragraph 5 of the last office action dated 10-1-02 (paragraph 5 of the last office action dated 10-1-02 is incorporated herein by reference).

One of ordinary skill in the art would readily understand from Heinen that the tread may contain blocks defined by grooves including the at least one groove having the sidewalls as shown in figure 5. In any event: It would have been obvious to use Heinen's at least one groove for channeling water as one of the grooves defining blocks since it is taken as well known / conventional per se in the tread art to use blocks defined by grooves in order to improve wet traction / performance.

Applicant comments and the examiner agrees that the examiner relies on the figure 5 embodiment of Heinen.

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Applicant argues that Heinen discloses smaller grooves that extend transverse to the longitudinal direction of a larger groove instead of smaller grooves that extend in the longitudinal direction of a larger groove. This argument is not persuasive since in the figure 5 embodiment of Heinen, smaller grooves extend transverse to the longitudinal direction of a larger groove *and* smaller grooves extend in the longitudinal direction of the larger groove. The combination of these intersecting smaller grooves form the "riblets". Claim 1 fails to exclude smaller grooves that extend transverse to the longitudinal direction of a larger groove.

Japan '704

4) **Claims 1-10, 13-14, 18 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '704 (JP 3-57704) in view of at least one of Europe '885 (EP 820885), Japan '633 (JP 7-186633) and Great Britain '477 (GB 565477).**

Japan '704, Europe '885, Japan '633 and Great Britain '477 are applied as in paragraph 7 of the last office action (paragraph 7 of the last office action dated 10-1-02 is incorporated herein by reference).

Applicant argues that Japan '704 neither teaches nor suggests pitches of the dented lines (smaller grooves). More properly, Japan '704 teaches using more than two of the smaller grooves on each groove wall of a groove defining a block to increase water drainage capability. As the number of smaller grooves on each groove wall increases, the pitch of the smaller grooves decreases because the larger number of smaller grooves requires the smaller grooves to be more closely spaced. Japan '704 therefore suggests increasing the number of smaller grooves and correspondingly

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decreasing the pitch of the smaller grooves to increase water drainage capacity - only the expected results (increased water drainage capacity) being obtained.

Applicant argues that the sipes in Europe '885 do not define blocks and Japan '633 is completely irrelevant. More properly, Europe '885 and Japan '633, like Japan '704, use smaller grooves to drain water. The difference in location of the smaller grooves in Japan '704 (on walls of relatively wide width groove), Europe '885 (on walls of narrow width groove) and Japan '633 (on surface of block) does not detract from their common teaching that the smaller grooves serve the same function of draining water. The width and depth of the smaller grooves in Japan '704, Europe '885 and Japan '633 is substantially the same. Japan '704, Europe '885 and Japan '633 disclose using more than two such smaller grooves to improve drainage. Europe '885 and Japan '633 add to the disclosure of Japan '704 by specifically and expressly suggesting using a large number of such smaller grooves (which are consequently closely spaced so as to have a small pitch as claimed) to improve drainage (this being the desired result of Japan '704).

Applicant argues that Great Britain '477 is clearly different. The examiner disagrees. The use of longitudinally extending smaller grooves on the walls of relatively wide grooves in Japan '704 and the use of longitudinally extending smaller grooves on the walls of relatively wide grooves in Great Britain '477 is completely the same. Great Britain '477 adds to the disclosure of Japan '704 by suggesting using a large number of such longitudinally extending smaller grooves and closely spacing the smaller grooves.

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In short, the applied prior art provides ample suggestion to use a large number of the smaller grooves of Japan '704 and to closely space the smaller grooves such that the pitch (spacing of the smaller grooves) is 0.1 - 0.5 mm to obtain improved water drainage capability.

5) **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '704 (JP 3-57704) in view of at least one of Europe '885 (EP 820885), Japan '633 (JP 7-186633) and Great Britain '477 (GB 565477) as applied above and further in view of Japan '605 (JP 3-86605).**

Japan '605 is applied as in paragraph 8 of the last office action (paragraph 8 of the last office action is incorporated herein by reference).

Allowable Subject Matter

6) **Claims 12 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

Remarks

7) Applicant's arguments filed 2-3-03 have been fully considered but they are not persuasive.

The 35 USC 103 rejection using Europe '885 in paragraph 6 of the last office action dated 10-1-02 has been withdrawn in view of (1) the amendment to claim 1 filed 2-3-03 and (2) applicant's arguments in the paragraph spanning pages 8 and 9 of the response filed 2-3-03.

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8) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

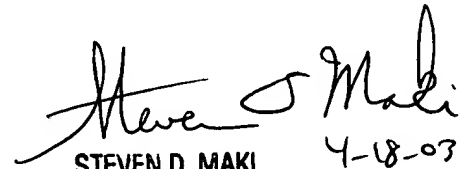
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
April 18, 2003


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
AJ 1733
4-18-03